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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,019	06/07/2005	Steve Townsend	42242	8881
38505	7590	09/30/2008		
MICHAEL W. TAYLOR P.O. BOX 3791 ORLANDO, FL 32802-3791			EXAMINER	
			OMCBA, ESSAMA	
			ART UNIT	PAPER NUMBER
			3726	
			MAIL DATE	DELIVERY MODE
			09/30/2008 PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/538,019

**Applicant(s)**

TOWNSEND ET AL.

**Examiner**

Essama Omgba

**Art Unit**

3726

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 and 14-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/CIS-100)
- Paper No(s)/Mail Date 10/23/2008
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of the invention of Group III, claims 11-13, in the reply filed on July 10, 2008 is acknowledged. The traversal is on the ground(s) that search and examination of the entire application can be made without serious burden. This is not found persuasive because Applicant has not provided any showing or evidence to support such a conclusion. Clearly, consideration of additional claims drawn to one or more distinct groups of inventions in diverse categories of subject matter (product, apparatus and methods) mandates different fields of search with the associated concomitant hundreds to thousand of patents and time consuming evaluation of those patents which gives rise to a sizeable burden on the examiner. Applicant has not established that the inventions of Groups I, II, III and IV are not distinct.

The requirement is still deemed proper and is therefore made FINAL.

### ***Specification***

2. The disclosure is objected to because of the following informalities: on page 1, line 5 of the second paragraph, "a" second occurrence should read --as--; on page 7, line 7 of the second paragraph, the phrase "used as a of pallet quality" is not clear.

Appropriate correction is required.

***Claim Objections***

3. Claims 11-13 are objected to because of the following informalities: in claim 11, line4, "a" should read --the--. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 12 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 recites the limitation "the bearer or connector board surface" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 13 recites the limitation "the pallet element surfaces" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 13 is also indefinite in that in line 2, the phrase "the three dimensional data is be filtered Sobel or Gaussian filters" is not clear.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over James et al. (US Patent 4,743,154) in view of Harding et al. (US Patent 6,701,615) and Ouellette (US Patent 5,096,369).

James et al. discloses a method of automated pallet repair wherein pallets are inspected and if needed transported to repair stations where the pallets are repaired (col. 1, lines 6-12 and 29-40, col. 2, lines 65-68 and col. 3, lines 121). James et al. does not disclose the inspection being done by using a scanning device to create a map of a pallet and creating a recipe of repair operation from the map. However it is known to inspect an article to be repaired by scanning the article to create a map of the article and creating a recipe of repair operation from the map as attested by Harding et al., see column 4, lines 63-67, column 5, lines 1-10 and 25-32, column 6, lines 44-55 and column 8, lines 35-51. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made, to have used a scanning device to create a map of the pallet and creating a recipe of repair operation in the method of James et al., in light of the teachings of Harding et al., in order to repair pallets more efficiently. Although James et al./Harding et al. does not specifically disclose gripping the pallets and moving the gripped pallets to one or more stations, however it is known to move pallets to be repaired by gripping the pallets and moving them to the different repair stations as attested by Ouellette, see column 3, lines 9-12. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made, to

have moved the pallets in the method of James et al./Harding et al. as taught by Ouellette, as is known in the art.

***Allowable Subject Matter***

8. Claims 12 and 13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Essama Omgba whose telephone number is (571) 272-4532. The examiner can normally be reached on M-F 9-6:30, 1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bryant can be reached on (571) 272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Essama Omgba/  
Primary Examiner, Art Unit 3726

eo  
September 27, 2008